IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1934 OF 2004

Mr. Shom Sengupta ...Applicant

Versus

Mafatlal Finance Co. Ltd. & Anr ...Respondents

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Mr. S.R. Parekh i/b M/s. I.R. Joshi & Co. Advocate for Applicant.

Mr. S.V. Marwadi i/b M/s. R.K. Associates, Adv. for Respondent No.1.

Mr. V.B. Konde Deshmukh, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 3RD OCTOBER, 2005

P. C.:-

1. Heard the learned advocate for the applicant, the learned advocate for the respondent No.1. i.e. original complainant and the learned A.P.P. for the State.

2. The applicant has prayed for quashing of proceedings relating to Criminal Case No.258/S/2003 which is pending in the Court of learned M.M. 43rd Court, Boriali, Mumbai. In the said case, process has been issued against the applicant under Section 138 of Negotiable Instruments Act. The learned advocate for the applicant submitted that the learned

Magistrate committed an error in issuing process and the said process deserves to be set aside. It is further submitted that if the process issued against the applicant is set aside, the proceedings in respect of the applicant would come to an end.

3. For the reasons recorded in the decision of this Court in the case of **V.K. Jain & Ors. Vs. Pratap Vs. Padode and Anr, reported in 2005(3) Mh.L.J. 778,** in my opinion, the applicant has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the applicant prefers revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the applicant to prefer revision before the concerned Sessions Court. The learned advocate for the applicant states that the necessary revision would be preferred within a period of six weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of six weeks from today. The learned advocate for the respondent No.1 i.e. original complainant fairly states that no objection would be raised in respect of delay in filing revision before the learned Sessions Judge. The learned advocate for the applicant states that two days advance notice

would be given to the respondent No.1 i.e. original complainant in respect of filing revision before the Sessions Court.

5. On the necessary revision being preferred by the applicant before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties. The said revision shall be disposed of expeditiously.

6. Application is disposed of.

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